

9/21/20
JULIA C. DUDLEY, CLERK
BY: s/ ELLA SURBER
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION

BURWOOD GROUP, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No. <u>2 : 20CV21</u>
)	
LEE COUNTY HOSPITAL)	
AUTHORITY,)	
)	
Defendant.)	

COMPLAINT

NOW COMES Plaintiff, BURWOOD GROUP, INC. (“Burwood”), for its
Complaint against Defendant, LEE COUNTY HOSPITAL AUTHORITY (the
“Authority”), and in support thereof states as follows:

JURISDICTION AND VENUE

1. Burwood is a corporation organized under the laws of Illinois with its principal place of business located at 125 South Wacker Drive, Chicago, Illinois, 60606.
2. The Authority is a hospital authority of the County of Lee, Virginia, organized under Va. Code § 15.2-5300, *et seq.*
3. There is diversity of citizenship between Burwood and the Authority.
4. The amount in controversy exceeds \$75,000.
5. Jurisdiction is proper under 28 U.S.C. § 1332.
6. Venue is proper in this Court under 28 U.S.C. § 1391.

FACTS

7. Burwood and Lee County Medical Center, LLC (“LCMC”) entered into a written sales agreement, dated April 11, 2018, by which Burwood agreed to ship technology products to LCMC, and LCMC agreed to pay Burwood \$192,520.77. See Quotation Number CHIQ47208-B (the “April Agreement”), a true and correct copy of which is attached hereto and incorporated herein as Exhibit A.

8. Burwood fully performed its obligations under the April Agreement.

9. In a subsequent agreement between Burwood and LCMC, dated May 25, 2018, Burwood agreed to ship additional products to LCMC, and LCMC agreed to pay \$118,609.56. See the May 25, 2018 Quotation Number CHIQ47688-B (the “May Agreement”), a true and correct copy of which is attached hereto and incorporated herein as Exhibit B.

10. Burwood fully performed its obligations under the May Agreement.

11. In a subsequent agreement between Burwood and LCMC, dated June 1, 2018, Burwood agreed to ship additional products to LCMC, and LCMC agreed to pay Burwood \$99,767.49. See the June 1, 2018 Quotation Number CHIQ47887-H (the “June Agreement”), a true and correct copy of which is attached hereto and incorporated herein as Exhibit C.

12. Burwood fully performed its obligations under the June Agreement.

13. At all times relevant hereto, the April, May, and June Agreements (the “Agreements”) were governed by Burwood Group Inc. Standard Terms and

Conditions of Sale (the “Terms and Conditions”), a true and correct copy of which is attached hereto and incorporated herein as Exhibit D.

14. LCMC entered into an Asset Purchase Agreement dated January 30, 2019, with the Authority, for the purpose of conveying the medical facility that LCMC operated and for which Burwood had provided products under the Agreements.

15. On or about February 20, 2019, the Authority entered into that certain Assignment and Assumption Agreement with LCMC and others. See Assignment and Assumption Agreement, a true a correct copy of which is attached hereto as Exhibit E (the “Assignment”).

16. As part of the Assignment, LCMC assigned the Agreements to the Authority.

17. To date, the Authority has failed to remit payments under the Agreements.

COUNT I
Breach of Contract

18. Burwood restates and re-alleges paragraphs 1-17 of the Complaint as if fully set forth herein this paragraph 18.

19. The Agreements are valid and enforceable agreements between Burwood and LCMC.

20. Through the Assignment, the Authority assumed the obligations of LCMC under the Agreements.

21. Burwood complied with all terms of the Agreements.

22. The Authority has not tendered payment as required under the Agreements.

23. The Agreements provide for a 1.5% per month interest rate for each month that amounts due under the Agreements remain unpaid.

24. The Agreements provide for the payment of “any attorney or collection fees incurred by Burwood Group to effect settlement of any undisputed past due invoice.”

25. Due to the Authority’s failure to pay Burwood for products provided under the Agreements, Burwood has suffered damages in an amount not less than \$410,897.82, plus contractual interest, costs, and attorney’s fees.

WHEREFORE, Burwood respectfully requests that this Court enter judgment against the Authority:

- A. Awarding damages to Burwood in an amount not less than \$410,897.82, plus contractual interest, costs, and attorney’s fees, and
- B. Awarding such other and further relief as this Court deems just and proper.

Respectfully submitted,

BURWOOD GROUP, INC.

By Counsel

Seth M. Land
VSB No. 75101
PENN, STUART & ESKRIDGE
P. O. Box 2288
Abingdon, VA 24212
Telephone: 276-628-5151
Facsimile: 276-628-5621
sland@pennstuart.com

By /s/ Seth M. Land